

EMBARGOED MATERIAL

#2594.



pennsylvania veterinary medical association

advancing animal welfare and human health while ensuring the vitality of the profession

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INDEPENDENT REGULATION
PENNSYLVANIA VETERINARY MEDICAL ASSOCIATION



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Date March 17, 2009

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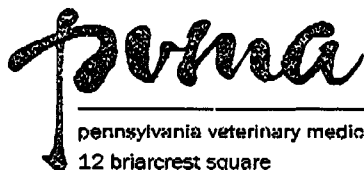
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Number of pages in total 3 (includes cover)

Hi everyone --

Comments re: Final Form Regulation 16A-5721 (2594) are attached for your consideration. Thank you!
Sincerely yours, Charlene Wandzilak



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March 16, 2009

Independent Regulatory Review Commission
The Honorable Arthur Coccodrilli, Chairman
333 Market St, 14th Floor
Harrisburg, PA 17101

Dear Chairman Coccodrilli:

On behalf of the members of the Pennsylvania Veterinary Medical Association (PVMA), I am writing in response to the final form regulation, Final 16A-5721 (#2594) Professional Conduct, submitted by the State Board of Veterinary Medicine and which will be heard by the Independent Regulatory Review Commission on March 19, 2009. We submit the following concerns and suggestions prior to final promulgation of these regulations:

§31.1. Definitions.

"Neglect – To abandon an animal or deprive, EITHER PERSONALLY OR THROUGH ONE'S EMPLOYEES OR AGENTS, an animal over which one has a duty of care, whether belonging to himself or otherwise, of necessary sustenance, drink, shelter or veterinary care APPROPRIATE TO THE ANIMAL'S CONDITION or access to sanitary shelter which will protect the animal against inclement weather, preserve the animal's normal temperature and keep it dry AND SUPPORT FOR AN ANIMAL'S BASIC PHYSICAL AND EMOTIONAL NEEDS.

The use of the word "emotional needs" is nebulous. Who will be required to evaluate the emotional needs of animals? Who defines what "emotional needs" are? The needs of an animal vary greatly by age, species, setting, etc. What standards must be met to determine whether or not a licensee has met those needs? As written, it is very subjective and can open up the Board and licensees to many unintended consequences. PVMA suggests that the language be changed to read: "AND SUPPORT AN ANIMAL'S BASIC NEEDS."

PROFESSIONAL CONDUCT

§31.21. Rules of Professional Conduct of Veterinarians.
Principle 1. Competency.

(C)(4) HAS OBTAINED WRITTEN CONSENT FROM THE CLIENT.

We recommend the following language: "HAS DOCUMENTED CONSENT FROM THE CLIENT IN THE MEDICAL RECORD." In various situations, clients may be unwilling to provide a written consent form because of their emotional state (angry, suspicious, distraught). We do recognize that it is important for the veterinarian to educate the client on his or her limitations in the practice or his or her expertise and to document that the limitations, procedures, and complications have been discussed. Therefore, we recommend these changes in the language which still accomplishes the goal of the regulation but also recognizes that a written consent may be impossible to obtain in every situation.

Principle 1. Competency. D)(E). If read as it is written the current insertions and deletions, it appears to be missing the words which we have indicated in [BOLD GAPS] as follows:

d)(E) Veterinarians shall safeguard the public and the veterinary profession against veterinarians deficient in professional competence, PROFESSIONAL conduct OR ETHICAL CONDUCT as described in this chapter.

- (1) When a veterinarian knows or has reason to believe that a professional colleague's actions demonstrate [A] DEVIATION FROM OR FAILURE TO CONFORM TO THE STANDARDS OF ACCEPTABLE AND PREVAILING VETERINARY MEDICAL PRACTICE OR professional incompetence, neglect or animal abuse, a veterinarian [SHALL or SHOULD] bring the behavior to the attention of the colleague,

In addition, it needs to be determined if the intention of the Board is to require (shall) the veterinarian to bring the behavior to the attention of the colleague or if it is an aspiration (should).

In the next section, we suggest the changes listed in [BOLD CAPS] to the current language to correct grammatical errors and to word the section in a way which makes it more easily understandable.

(2) A VETERINARIAN SHALL BRING THE BEHAVIOR OF ANOTHER VETERINARIAN TO THE ATTENTION OF THE BOARD BY SENDING A WRITTEN REPORT TO THE BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS, PROFESSIONAL COMPLIANCE OFFICE, P.O. BOX 2649, HARRISBURG, PA 17105- 2649 IF:

- (I) THE VETERINARIAN CANNOT INFORMALLY RESOLVE AN ISSUE ~~OF [INVOLVING]~~ THE DEVIATION FROM OR [A] FAILURE TO CONFORM TO THE STANDARDS OF ACCEPTABLE AND PREVAILING VETERINARY MEDICAL PRACTICE OR PROFESSIONAL INCOMPETENCE WITH THE OTHER VETERINARIAN, OR
- (II) THE VETERINARIAN LEARNS OF REPEATED DEVIATION[S] FROM OR FAILURE TO CONFORM TO THE STANDARDS OF ACCEPTABLE AND PREVAILING VETERINARY MEDICAL PRACTICE, PROFESSIONAL INCOMPETENCE OR MISCONDUCT, OR
- (III) THE MATTER INVOLVES ANIMAL ABUSE OR NEGLECT.

(5) REPRESENTING CONFLICTING INTERESTS, EXCEPT WITH WRITTEN CONSENT OF PARTIES KNOWN TO THE VETERINARIAN [TO HAVE CONFLICTING INTERESTS AND THEN ONLY] ~~GIVEN~~ AFTER A FULL DISCLOSURE OF THE FACTS. REPRESENTING CONFLICTING INTERESTS INCLUDES BEING EMPLOYED BY A BUYER TO INSPECT AN ANIMAL FOR SALE AND ACCEPTING A FEE FROM THE SELLER AND[OR] PROVIDING VETERINARY MEDICAL ADVICE REGARDING A COMMON MATTER TO MULTIPLE PERSONS INTERESTED IN THE MATTER.

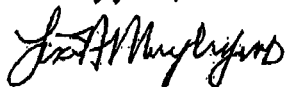
If the words "and/or" are not inserted in the section above, then all of these elements must be met to prove a violation of this section and each element is something completely different from the next. They are unrelated.

(14) Delegating a veterinary medical service to a certified veterinary technician, VETERINARY TECHNICIAN SPECIALIST or INDIVIDUAL NOT LICENSED TO PRACTICE VETERINARY MEDICINE THAT IS BEYOND THE SCOPE OF PRACTICE FOR THAT INDIVIDUAL AS DEFINED BY LAW OR REGULATION OR who the licensee VETERINARIAN knows or should know is not qualified by education, training, experience, license or certification, to perform [SUCH TASK OR SERVICE].

We, as the Association representing Pennsylvania's veterinarians, support efforts to improve and advance the profession and to protect the public and the animals we serve. We commend the State Board of Veterinary Medicine on their diligent work to ensure that the veterinary profession is serving the public to the best of its ability. Thank you for consideration of our concerns.

If you have any questions, please feel free to contact our Executive Director, Charlene Wandzilak, at 1-888-550-7862 or cwandzilak@pavma.org.

Sincerely yours,



Lisa A. Murphy, VMD, DABT
President

Cc: Teresa Lazo, Board Counsel, State Board of Veterinary Medicine
John Jewett, Regulatory Analyst, Independent Regulatory Review Committee
The Honorable Robert Tomlinson, Senate Consumer Protection and Professional Licensure Committee
The Honorable John Gordner, Senate Consumer Protection and Professional Licensure Committee
The Honorable Lisa Boscola, Senate Consumer Protection and Professional Licensure Committee
The Honorable Michael McGeehan, House Professional Licensure Committee
The Honorable Harry Readshaw, House Professional Licensure Committee
The Honorable William Adolf, House Professional Licensure Committee